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Amendment
Attorney Docket No. S63.2N-11056-US03

Remarks

This Amendment is in response to the Final Office Action dated May 16, 2005. Claims 65, 68, and 76-82 were rejected under 35 USC 112, 2nd paragraph as being indefinite for lacking antecedent basis. Applicant believes that a flowpath is inherent in a stent; nevertheless, Applicant has amended claim 65 to provide antecedent basis for the term. Applicant requests that the 112 rejection be withdrawn.

Claims 61, 64, 65, 68-82, 86, and 87 were rejected under 35 USC 102(e) in light of US Patent 5,562,729 to Purdy et al.

Applicant disagrees with this rejection. Nevertheless, in order to advance the prosecution of this case, Applicant has amended claims 61 and 86 without prejudice or disclaimer. Amended claims 61 and 86 recite, respectively, a "prosthesis" or a "stent" that is "capable of radial outward expansion from a first diameter to a second enlarged diameter".

The device identified as a "stent" in the heart valve of Purdy is not disclosed as being capable of outward radial expansion to a second enlarged diameter as recited in amended claims 61 and 86. In fact, in as much as Purdy teaches a "stent", the "stent" is described as resilient rather than expandable. Purdy does not provide any disclosure that this resiliency results in expansion or different diameters. Thus, for at least this reason, Purdy does not teach the limitations of claims 61 or 86. Applicant respectfully requests that the 102(e) rejection of claims 61 and 86 and claims 64, 69-75, and 87 dependent thereof be withdrawn.

Claim 65 recites "the struts disposed about a multiplicity of through-holes in the wall". The Final Office Action points to the open spaces between the struts of Purdy as anticipatory of this limitation.

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Applicant disagrees with the rejection. Claim 65 specifically recites a "multiplicity of through-holes in the wall". A through-hole is a hole which passes through something, in this case a stent wall. The open spaces between the struts of the Purdy device are simply not through-holes as they do not pass through anything. They are merely open spaces which are outside the proximal and distal bounds of the structure of the "stent". Thus, Purdy does not teach the limitations of claim 65. Applicant respectfully requests that the 102(e) rejection of claim 68 and claims 76-82 dependent thereof be withdrawn.

Alternatively, claims 61, 64, 65, 68-82, 86, and 87 were rejected under 35 USC 103(a) in light of US Patent 5,562,729 to Purdy et al.

Applicant believes the Purdy reference is inappropriately applied against the instant claims. Purdy is directed to a heart valve while independent claims 61 is directed to an expandable tubular endoluminal prosthesis for maintaining the patency of a body vessel and claims 65 and 86 are directed to a stent. These instant claims and the heart valve of Purdy are from two different areas in the art; one skilled in the art of expandable stents or endoluminal prostheses would not look to the heart valve art for construction of these items.

More specifically as to claims 61 and 86 and claims dependent therefrom, which are directed to a prosthesis or stent which is capable of radial outward expansion from a first diameter to a second enlarged diameter, there is no teaching or suggestion that the features of the device of Purdy, which is part of a heart valve and which is not disclosed as being expandable, would be appropriate for a radially expandable stent. Typically, devices such as those disclosed in Purdy are implanted surgically, rather than via delivery on a catheter.

More specifically as to claim 65 and claims dependent therefrom, we have established above that Purdy does not teach through-holes. The purpose of the Purdy "stent" is to

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serve as a framework for a valve. There is no suggestion or motivation in Purdy for providing through-holes in the Purdy "stent".

For at least the reasons listed above, independent claims 61, 65, 86, and those claims dependent thereon are in condition for allowance. Applicant requests that the 102(e) rejection and the alternative 103(a) rejection be withdrawn.

Claim 86 was rejected under 35 USC 103(a) as being unpatentable over US Patent 6,582,462 to Anderson et al in view of US Patent 5,449,384 to Johnson.

Applicant disagrees with the rejection. Nevertheless, to forward prosecution, claim 86 has been amended without prejudice or disclaimer to recite "the stent capable of radial outward expansion from a first diameter to a second diameter, the second diameter substantially greater than the first diameter". There is no teaching or suggestion in Johnson or Anderson that the framework disclosed therein is capable of radial outward expansion from a first diameter to a second enlarged diameter. Nor is there motivation in the Johnson and Anderson references for modifying the framework so as to make it expandable to a second, enlarged diameter because such devices are typically implanted surgically, rather than via delivery on a catheter.

In addition, Applicant's struts having thicker portions with a narrower portion therebetween and are designed to maintain the patency of a bodily vessel. The "grooves" of Johnson are for the purpose of securing leaflets of aortic wall material to the device of Johnson by tucking the aortic wall material into the grooves of the struts. This tucking in is feasible for devices such as Johnson's which are typically implanted surgically rather than by catheter delivery. It would not be obvious to provide the claimed stent with a groove that allows portions of a body lumen to be tucked and secured within the stent wall or strut as this there is no obvious non-surgical method available to tuck the wall material into the grooves. As such, one skilled in

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the art would not look to the grooves of Johnson for designing struts for maintaining the patency of a vessel.

For at least these reasons, claim 86 and claim 87 dependent thereof are in condition for allowance. Withdrawal of the 103(a) rejection is respectfully requested.

Claim 85 was rejected under 35 USC 102(b) as being anticipated by US Patent 4,950,227 to Savin et al.

Claim 85 has been amended to recite that stent is formed from a tube having a wall with a multiplicity of holes formed therethrough between the first and second ends via the removal of material from the wall. This feature is not disclosed in Savin. Moreover, this feature of the claim results in a stent that does not have regions where wires cross one another, unlike the Savin stent.

For at least these reasons the Savin reference does not anticipate. Withdrawal of the rejection is respectfully requested.

New claim 88 has been added. No new matter has been added with the amendments or new claim.

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CONCLUSION

In view of the foregoing it is believed that the present application, with pending claims 61, 64, 65, and 68-88, is in condition for allowance. Early action to that effect is earnestly solicited.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: August 11, 2005

By: 
Brendan C. Babcock
Registration No.: 50705

6109 Blue Circle Drive, Suite 2000
Minnetonka, MN 55343-9185
Telephone: (952) 563-3000
Facsimile: (952) 563-3001

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